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THIS DISPOSITION IS NOT
CITABLE AS PRECEDENT OF THE TTAB MARCH 28, 00

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Educational Funding Services, Inc.

Serial No. 75/293,872

Jennifer G. Cramer of Bromberg & Sunstein, LLP for
Educational Funding Services, Inc.

Lori Stockton, Trademark Examining Attorney, Law Office 113
(Meryl Hershkowitz, Managing Attorney).

Before Cissel, Quinn and Holtzman, Administrative Trademark
Judges.

Opinion by Cissel, Administrative Trademark Judge:

On May 19, 1997, the above-referenced application for
registration on the Principal Register was filed based on
applicant's assertion that it possessed a bona fide
intention to use the mark "EFG" in commerce in connection
with what were subsequently identified by amendment as
"loan financing; and security services, namely guaranteeing
loans," in Class 36.

Registration was refused under Section 2(d) of the Act. The Examining Attorney held that applicant's mark so resembles the mark "THE EFG CONNECTION," which is registered¹ for a "newsletter for high school guidance counselors and financial aid professionals providing information on career planning, college selection, and financial aid," in Class 16, that confusion would be likely if applicant's mark were used in connection with the loan services specified in the application.

This case is now before the Board on appeal from the final refusal under Section 2(d). Both applicant and the Examining Attorney filed briefs, and both presented arguments at the oral hearing conducted before the Board.

Based on careful consideration of the record before us in this case and the arguments presented by applicant and the Examining Attorney, we hold that the refusal to register is appropriate.

The test to be applied in determining whether one mark is likely to cause confusion with another is well settled and is not disputed in the case at hand. First, the marks themselves must be considered with regard to similarities in appearance, pronunciation, connotation and commercial

¹ Registration No. 2,003,575, issued on the Principal Register to Chemical Banking Corp. on Sept. 24, 1996.

impression. In re E.I. duPont de Nemours & Co., 476 F.2d 1357, 177 USPQ 563(CCPA 1973). Similarity in any one of these elements is sufficient to form the basis for finding that confusion is likely. In re Mack, 197 USPQ 755(TTAB 1977). The second element of the test requires comparison of the goods or services, as they are set forth in the application and the cited registration, respectively, in order to determine if they are related in such a way that confusion would be likely to occur if similar marks were used with both. In re International Telephone and Telegraph Corp., 1970 USPQ 910 (TTAB 1978).

In the instant case, the Examining Attorney's position is that applicant's mark is similar to the mark in the cited registration and the goods specified in the registration are of a type that might be expected to emanate from the same entity which renders the services set forth in the application if similar trademarks were to be used in connection with both.

In support of her refusal of registration, the Examining Attorney made of record information retrieved from the Patent and Trademark Office records concerning a number of third-party registrations. In each of these registrations, the goods and services specified include

both financial services such as providing loan financing, as well as newsletters dealing with the same topic.

Applicant disagrees with the position taken by the Examining Attorney, arguing that the marks, when they are considered in their entirety, are not similar enough to cause confusion when they are used in connection with, respectively, the services set forth in the application and the goods identified in the cited registration.

We agree with the Examining Attorney that the marks create similar commercial impressions by virtue of the fact that applicant's mark embodies the dominant component of the registered mark, and the record provides a basis for concluding that prospective customers of the services with which applicant intends to use its proposed mark are likely to assume, mistakenly, as it would turn out to be, that the use of these similar marks in connection with both the goods set forth in the registration and the services specified in the application indicates that they emanate from the same source.

Turning first to the marks, we note the well-settled principle that although the marks must be compared in their entirety, it must be recognized that one feature of a mark can be more significant in creating the commercial impression engendered by that mark. Greater weight may be

given to that dominant feature in determining whether there is a likelihood of confusion. In re National Data Corp., 753 F.2d 1056, 224 USPQ 749 (Fed. Cir. 1985). Further, addition of suggestive terminology will not ordinarily rule out a finding that the marks are likely to cause confusion. That is to say, if the dominant part of both marks is the same, even though the marks in their entireties are not identical, confusion may still be likely.

In the instant case, applicant's mark, "EFG," is identical to the dominant element in the registered mark, "THE EFG CONNECTION." The article "THE" with which the registered mark begins obviously has little source-identifying significance. The other additional word in the registered mark, "CONNECTION," has suggestive significance in the registered mark. When used in connection with the products sold under the registered mark, "CONNECTION" connotes that registrant's newsletters provide a connection, or link, between high school guidance counselors, financial aid professionals and information with regard to, inter alia, financial aid for college expenses.

This connection, or link, is the "EFG" connection, and it would not be unreasonable for consumers who are familiar with use of the registered trademark in connection with

registrant's newsletters, which address, at least in part, financial aid for college, to assume that loan services offered under the mark "EFG" would emanate from the same source.

Indeed, the evidence submitted by the Examining Attorney showing that financial institutions have registered their trademarks for both their financial services and their newsletters tends to show that these goods and services are related. In re Albert Trostel & Sons Co., 29 USPQ2d 1783 (TTAB 1993).

In summary, applicant's mark creates a commercial impression similar to that created by the registered mark, and the use of these similar marks in connection with goods and services which can be expected to be provided by a single business under one trademark would plainly be likely to cause confusion. Accordingly, the refusal to register under Section 2(d) of the Act is affirmed.

R. F. Cissel

T. J. Quinn

T. E. Holtzman
Administrative Trademark Judges,
Trademark Trial and Appeal Board

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